

Subpart A—General

§ 16.101 Purpose of regulations.

(a) The regulations in this part provide a means to minimize the use of intoxicants by merchant marine personnel and to promote a drug free and safe work environment.

(b) These regulations prescribe the minimum standards, procedures, and means to be used to test for the use of dangerous drugs.

(c) As part of a reasonable cause drug testing program established pursuant to this part, employers may test for drugs in addition to those specified in this part only with approval granted by the Coast Guard under 49 CFR part 40 and for substances for which the Department of Health and Human Services has established an approved testing protocol and positive threshold.

§ 16.105 Definitions of terms used in this part.

Chemical test means a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use.

Consortium/Third party administrator (C/TPA) means a service agent who provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members.

Credential is a term used to refer to any or all of the following:

- (1) Merchant mariner's document.
- (2) Merchant mariner's license.
- (3) STCW endorsement.
- (4) Certificate of registry.
- (5) Merchant mariner credential.

Crewmember means an individual who is:

- (1) Onboard a vessel acting under the authority of a credential issued under this subchapter, whether or not the individual is a member of the vessel's crew; or
- (2) Engaged or employed onboard a vessel owned in the United States that

is required by law or regulation to engage, employ, or be operated by an individual holding a credential issued under this subchapter, except for the following:

(i) Individuals on fish processing vessels who are primarily employed in the preparation of fish or fish products, or in a support position, and who have no duties that directly affect the safe operation of the vessel;

(ii) Scientific personnel on an oceanographic research vessel;

(iii) Individuals on industrial vessels who are industrial personnel, as defined in this chapter; and

(iv) Individuals not required under part 15 of this subchapter who have no duties that directly affect the safe operation of the vessel.

Dangerous drug means a narcotic drug, a controlled substance, or a controlled-substance analog (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 (21 U.S.C. 802)).

Drug test means a chemical test of an individual's urine for evidence of dangerous drug use.

Employer means a marine employer or sponsoring organization.

Fails a chemical test for dangerous drugs means that the result of a chemical test conducted in accordance with 49 CFR 40 was reported as "positive" by a Medical Review Officer because the chemical test indicated the presence of a dangerous drug at a level equal to or exceeding the levels established in 49 CFR part 40.

Marine employer means the owner, managing operator, charterer, agent, master, or person in charge of a vessel, other than a recreational vessel.

Medical Review Officer (MRO) means a person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

Operation means to navigate, steer, direct, manage, or sail a vessel, or to control, monitor, or maintain the vessel's main or auxiliary equipment or systems. Operation includes:

- (a) Determining the vessel's position, piloting, directing the vessel along a desired trackline, keeping account of